



Localism Act 2011

2011 CHAPTER 20

PART 6

PLANNING

CHAPTER 5

ENFORCEMENT

124 Time limits for enforcing concealed breaches of planning control

(1) In the Town and Country Planning Act 1990 after section 171B insert—

“171BA Time limits in cases involving concealment

- (1) Where it appears to the local planning authority that there may have been a breach of planning control in respect of any land in England, the authority may apply to a magistrates’ court for an order under this subsection (a “planning enforcement order”) in relation to that apparent breach of planning control.
- (2) If a magistrates’ court makes a planning enforcement order in relation to an apparent breach of planning control, the local planning authority may take enforcement action in respect of—
 - (a) the apparent breach, or
 - (b) any of the matters constituting the apparent breach,at any time in the enforcement year.
- (3) “The enforcement year” for a planning enforcement order is the year that begins at the end of 22 days beginning with the day on which the court’s decision to make the order is given, but this is subject to subsection (4).
- (4) If an application under section 111(1) of the Magistrates’ Courts Act 1980 (statement of case for opinion of High Court) is made in respect of a planning

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enforcement order, the enforcement year for the order is the year beginning with the day on which the proceedings arising from that application are finally determined or withdrawn.

- (5) Subsection (2)—
- (a) applies whether or not the time limits under section 171B have expired, and
 - (b) does not prevent the taking of enforcement action after the end of the enforcement year but within those time limits.

171BB Planning enforcement orders: procedure

- (1) An application for a planning enforcement order in relation to an apparent breach of planning control may be made within the 6 months beginning with the date on which evidence of the apparent breach of planning control sufficient in the opinion of the local planning authority to justify the application came to the authority’s knowledge.
- (2) For the purposes of subsection (1), a certificate—
 - (a) signed on behalf of the local planning authority, and
 - (b) stating the date on which evidence sufficient in the authority’s opinion to justify the application came to the authority’s knowledge,
 is conclusive evidence of that fact.
- (3) A certificate stating that matter and purporting to be so signed is to be deemed to be so signed unless the contrary is proved.
- (4) Where the local planning authority apply to a magistrates’ court for a planning enforcement order in relation to an apparent breach of planning control in respect of any land, the authority must serve a copy of the application—
 - (a) on the owner and on the occupier of the land, and
 - (b) on any other person having an interest in the land that is an interest which, in the opinion of the authority, would be materially affected by the taking of enforcement action in respect of the apparent breach.
- (5) The persons entitled to appear before, and be heard by, the court hearing an application for a planning enforcement order in relation to an apparent breach of planning control in respect of any land include—
 - (a) the applicant,
 - (b) any person on whom a copy of the application was served under subsection (4), and
 - (c) any other person having an interest in the land that is an interest which, in the opinion of the court, would be materially affected by the taking of enforcement action in respect of the apparent breach.
- (6) In this section “planning enforcement order” means an order under section 171BA(1).

171BC Making a planning enforcement order

- (1) A magistrates’ court may make a planning enforcement order in relation to an apparent breach of planning control only if—

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- (a) the court is satisfied, on the balance of probabilities, that the apparent breach, or any of the matters constituting the apparent breach, has (to any extent) been deliberately concealed by any person or persons, and
 - (b) the court considers it just to make the order having regard to all the circumstances.
 - (2) A planning enforcement order must—
 - (a) identify the apparent breach of planning control to which it relates, and
 - (b) state the date on which the court’s decision to make the order was given.
 - (3) In this section “planning enforcement order” means an order under section 171BA(1).”
- (2) In section 188 of the Town and Country Planning Act 1990 (register of enforcement and stop notices)—
 - (a) in subsection (1) (matters to which registers apply) before paragraph (a) insert—
 - “(za) to planning enforcement orders,”,
 - (b) in subsection (2)(a) (development order may make provision about removal of entries from register)—
 - (i) before “enforcement notice” insert “planning enforcement order,”,
 - (ii) before “any such notice” insert “any planning enforcement order or”,
 - and
 - (iii) after “specified in the” insert “development”,
 - (c) in subsection (2)(b) (development order may make provision about supply of information by county planning authority) after “served by” insert “, and planning enforcement orders made on applications made by,”,
 - (d) after subsection (3) insert—
 - “(4) In this section “planning enforcement order” means an order under section 171BA(1).”, and
 - (e) in the heading after “and stop notices” insert “and other enforcement action”.
- (3) In section 191 of the Town and Country Planning Act 1990 (certificate of lawfulness of existing use or development) after subsection (3) insert—
 - “(3A) In determining for the purposes of this section whether the time for taking enforcement action in respect of a matter has expired, that time is to be taken not to have expired if—
 - (a) the time for applying for an order under section 171BA(1) (a “planning enforcement order”) in relation to the matter has not expired,
 - (b) an application has been made for a planning enforcement order in relation to the matter and the application has neither been decided nor been withdrawn, or
 - (c) a planning enforcement order has been made in relation to the matter, the order has not been rescinded and the enforcement year for the order (whether or not it has begun) has not expired.”